

October 1, 2016

SUBMITTED ELECTRONICALLY VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW Washington, DC 20554

FCC Docket 02-6

Re: Appeal of Dewar Public Schools (BEN: 140176), for denial of FY 2013
Application 881181 FRN 2402359

Pursuant to 47 C.F.R. § 54.719(a), Dewar hereby respectfully submits this appeal of decisions by the Universal Service Administrative Company (USAC) to deny FRN 2402359 for Funding Year 2013.

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The reason for denial:

“The FRN is denied because you did not select the most cost-effective bid proposal. FCC rules state that in selecting a provider of eligible services, applicants must carefully consider all bids submitted and must select the most cost-effective service offering. The FCC codified in the Ysleta Order, that in evaluating bids from prospective service providers, applicants must select the most cost-effective offering from the bids received. The selected bid must itself be cost-effective compared to the prices available commercially and stated that ‘there may be situations where the price of services is so exorbitant that it cannot, on its face, be cost-effective. For instance, a proposal to sell at prices two to three times greater than the prices available from commercial vendors would not be cost effective, absent extenuating circumstances.’”

Signed:

_____/s/

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I. INTRODUCTION

Dewar Public Schools (Dewar or the District) hereby respectfully requests that the Universal Service Administrative Company (USAC) reverse its decision to deny Schools and Libraries (E-rate) universal service funding to Dewar for its FRN 2402359 on 471 Application Number 881181 for Funding Year 2013.

USAC denied the District's request for funding because USAC claims that the District did not select the most cost-effective bidder to provide its Internet access services. To the contrary, as the discussion below will explain, the District satisfied all of the program's competitive bidding rules and selected the most cost-effective services, when it considered price and its other evaluation criteria. USAC's use of a bright-line standard is contrary to Commission precedent stating no such bright-line test exists, and, regardless, *Ysleta* is not applicable here.

Upholding the denials of these applications will preclude a fair and open competitive bidding process in which all bids are fairly evaluated, render the competitive bidding process meaningless and will force schools to select a lower-cost bid, even if not the most cost-effective, contrary to program rules – and possibly their own competitive bidding requirements. For practical purposes, this ruling by USAC will make price the only factor that matters in the E-rate competitive bidding process. That will result in many applicants selecting services that do not provide the best value for them or, therefore, the E-rate program. Such an outcome would not serve the E-rate program or statutory goals. Thus, we respectfully ask USAC to reverse its decision and grant funding to the District for the funding request at issue.

II. BACKGROUND

Dewar is a small, rural school district in northeastern Oklahoma. The District has approximately 420 students and at the time that the competitive bidding process was conducted, the district did not have a full time IT person on staff.¹

For Funding Year 2013 the District filed a 470 requesting bids for Internet access.² The District also released a Request for Proposal on October 15th, 2012.³ Included in this RFP was a request for Internet access.

The District received two bids for the Internet access portion of the RFP: Meet Point Networks and OneNet.⁴ After carefully evaluating the bids received, the District selected Meet Point Networks to provide their Internet access under a multi-year contract.⁵

On May 20th, 2016 USAC issued a Notification of Commitment Adjustment Letter that denied the funding request for Meet Point services on FRN 2402359.⁶ The reason for the denial states:

“The FRN is denied because you did not select the most cost-effective bid proposal. FCC rules state that in selecting a provider of eligible services, applicants must carefully consider all bids submitted and must select the most cost-effective service offering. The FCC codified in the Ysleta Order, that in evaluating bids from prospective service providers, applicants must select the most cost-effective offering from the bids received. The selected bid must itself be cost-effective compared to the prices available commercially and stated that ‘there may be situations where the price of services is so exorbitant that it cannot, on its face, be cost-effective. For instance, a proposal to sell at prices two to three times greater than the prices available from commercial vendors would not be cost effective, absent extenuating circumstances.’”

Dewar received a USAC Appeal Denial Letters for 2013 on August 5, 2016.⁷

¹ Affidavit of Randy Witham, ¶ 4

² FCC Form 470 #389760001050053 (FY 2013 Form 470).

³ FY 2013 RFP, Exhibit 1.

⁴ See Exhibit 2, Bids Received.

⁵ FCC Form 471 # 881181, EXHIBIT 3. The services also include 24 x 7 troubleshooting and repair, onsite visits to restore Internet access, firewall services, and email and web hosting.

⁶ Exhibit 4, Notification of Commitment Adjustment Letter, dated 5/20/2016.

⁷ Administrator’s Decision Letter, Exhibit 5.

By this letter, the District appeals USAC's decision to rescind its funding commitments. Commission rules allow 60 days for the filing of an appeal to the FCC.⁸ Because this appeal is filed within 60 days of USAC's decision, it is timely filed.

III. USAC HAD ALREADY DETERMINED THAT THE FUNDING REQUEST WAS COST EFFECTIVE

On 4/17/2014 began a Cost Effectiveness review for Dewar's Internet access requests (including the Meet Point FRN 2402359) on 471# 881181. Kenneth Solomon, an Associate Manager with the Special Compliance team of USAC, requested information concerning the competitive bidding process for the Internet access requests, including copies of the bids and bid evaluation sheets. On 5/2/2014 the information requested was sent to Mr. Solomon.

On 9/25/2014 USAC issued a Funding Commitment Decision Letter for FRN 2402359. The Special Compliance team had concluded that this FRN was a cost effective purchase, and fully funded the request.

Two weeks later, on 10/15/2014 USAC began a second Cost Effectiveness review. Another Associate Manager from the Special Compliance team, Courtney Santiago, requested the same information that Kenneth Solomon had previously requested – copies of the bids, bid evaluation sheets and other competitive bidding information. The same bids, same bid evaluation sheets that USAC had previously reviewed six months before was again sent to USAC.

Approximately 18 months later, USAC issued the COMAD letter for FRN 2402359, despite originally concluding that the FRN was cost effective and funding the FRN. USAC has become a moving target – the same exact bids were previously reviewed by the same review team at USAC and had been found to be cost effective. Six months later, **reviewing the exact**

⁸ 47 C.F.R. § 54.719(a); 47 C.F.R. § 54.720(b).

same bids and the exact same bid evaluation sheets, USAC made a completely opposite conclusion that the bids were not cost effective, and they now want their money back.

USAC cannot be a moving target when ruling on funding requests. The Funding **Commitment** Decision Letter has to actually provide some sort of a commitment to the applicant, especially after USAC had specifically reviewed the FRN in question. It is patently unfair to require applicant to pay back funding that had already been rigorously reviewed by USAC. There has to be predictability in the program – requiring applicant to repay funding request which they used in Good Faith after a thorough review process is completely unfair and could lead applicants to abandon the program, which was not the intent of Congress when they established the rules.

IV. BECAUSE DEWAR SELECTED THE MOST COST-EFFECTIVE SERVICES, ITS E-RATE APPLICATION FOR FY 2013 SHOULD BE RE-INSTATED

Federal Communications Commission rules require applicants to seek competitive bids for all services and equipment eligible for E-rate discounts.⁹ Applicants are required to “carefully consider all bids submitted” and to select “the most cost-effective service offering” using the price of eligible goods and services as the primary factor.¹⁰ Under section 54.511(a) of the Commission’s rules, an applicant “may consider relevant factors other than the pre-discount prices” submitted by providers to determine which service offering is the most cost-effective, so long as price is the primary factor considered.¹¹

⁹ See 47 C.F.R. § 54.503(a)-(b) (2014). See also *In the Matter of Fed.-State Joint Bd. on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 97-157 at ¶ 480 (1997) (*First Universal Service Order*) (finding that “fiscal responsibility compels us to require that eligible schools and libraries seek competitive bids for all services eligible for [E-rate] discounts.”).

¹⁰ *Id.* at § 54.511(a) (2012) and (2014). See also 47 C.F.R. §§ 54.503(c)(2)(vii), 54.504(a)(1)(xi) (2012) (requiring applicants to certify on FCC Forms 470 and 471 respectively that the most cost-effective bid will be or was selected).

¹¹ 47 C.F.R. § 54.511(a).

The Commission's *Tennessee Order* ruled there is a presumption of cost-effectiveness when the applicant meets all of the requirements of the competitive bidding process and when the applicant pays its share of the costs.¹² Nevertheless, USAC alleges that the District did not select the most cost-effective service offering. USAC claims that the District's selection of services that cost more than two times another bid violates the Commission's directive in *Ysleta*.¹³ The "standard" used by USAC, however, has never been adopted by the Commission as a bright-line standard for cost-effectiveness. USAC is also applying this standard to compare bids that provide different service components (that are eligible). Further, the dicta in *Ysleta* is not applicable to this case.

A. Dewar Followed E-rate Competitive Bidding Rules to Select the Most Cost-Effective Bid, Contrary to USAC's Allegations.

In the *Universal Service Order* establishing the E-rate program, the Commission agreed with the recommendation of the Federal-State Joint Board on Universal Service that schools and libraries should not be required to choose the lowest-priced service but instead should be allowed the "'maximum flexibility' to take service quality into account and to choose the offering or offerings that meets their needs 'most effectively and efficiently.'"¹⁴ In the *Second Report and Order*, the Commission codified the requirement that price must be the primary factor when applicants analyze bids they have received.¹⁵

¹² *Tennessee Order* at ¶¶ 9-12 .

¹³ See Funding Commitment Decision Letter; *Request for Review of the Decision of the Universal Service Administrator by Ysleta Independent School District El Paso, Texas, et al.*, Order, FCC 03-313, 18 FCC Rcd 26407, n. 138 (2003) (*Ysleta Order*).

¹⁴ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, at ¶ 481 (1997) (*Universal Service Order*) (quoting the Joint Board's recommendation).

¹⁵ See *Schools and Libraries Universal Support Mechanism*, CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, FCC 03-101

Significantly, the Commission's rules have never required schools and libraries to select a provider offering a lower price, even among bids for comparable service.¹⁶ Given that price, as a category, only has to be weighted one point higher than any other category,¹⁷ however, it is quite likely that a vendor could be awarded fewer points in the cost category yet still win the bid based on points earned in the technical (non-price) categories. In fact, the Commission has stated repeatedly that price cannot be the only factor for the obvious reason that "price cannot be properly evaluated without consideration of what is being offered."¹⁸

The District met the Commission's requirements by giving more weight to price than to any other factor it used in the selection process and by appropriately awarding points in the other non-cost factors. The bid evaluation sheets used by the District allotted a maximum of 25 points for the price of eligible goods and services.¹⁹ The other categories – service history, expertise of company, understanding of needs/completeness of bids, and the location of the company – all had maximum points of 20 or fewer.²⁰

Dewar received two bids for its Internet access services: Meet Point Networks and OneNet. In addition to the price category, as described above, Dewar evaluated bidders based on

(2003) (codifying 47 C.F.R. §54.511(a)) (*Second Report and Order*); *see also School and Libraries Universal Support Mechanism*, CC Docket No. 02-6, Fifth Report and Order and Order, 19 FCC Rcd 15808 (2004) (codifying 47 C.F.R. § 54.504(b)(2)(vii) and 47 C.F.R. § 54.504(c)(1)(xi)) (*Fifth Report and Order*).

¹⁶ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9029, para. 481 (1997) (subsequent history omitted) (*Universal Service Order*). *See also Tennessee Order* at ¶ 9 ("Even among bids for comparable services, however, this does not mean that the lowest bid must be selected.").

¹⁷ If, for example, a school assigns 10 points to reputation and 10 points to past experience, the school would be required to assign at least 11 points to price. *See Ysleta Order* at ¶ 50, n. 138.

¹⁸ *Tennessee Order* at ¶ 8.

¹⁹ Bid Evaluation Sheets, Exhibit 6.

²⁰ *Id.*

service history; the expertise of the company; understanding of the district’s needs/completeness of bids; and the location of the company. In the bid evaluation process for FY 2013, OneNet received 60 points and Meet Point received 89 points.²¹ Meet Point earned the most points for the location, service history, expertise of the company, and understanding the needs/completeness of bids categories, OneNet received the most points for price of eligible goods and services.²²

Location is important to Dewar because it is an indicator of responsiveness if issues with the service arise.²³ Meet Point is located in Bixby, Oklahoma, 40 minutes away from Dewar, (39 miles). OneNet is located twice as far away in Oklahoma City, approximately an hour and half drive time (93 miles). Dewar decided to award more points for the service provider that is closest to the District, as it has experienced more timely restoration of services from a provider with closer offices.²⁴

Most importantly, Dewar considered the quality of service, as the Commission explicitly recognized in *Tennessee*, and selected the bid that met its needs “most effectively and efficiently.”²⁵ To meet the needs of its students and teachers, Dewar required an Internet access service that provided strong network security.²⁶ Meet Point received higher scores for Expertise of Company bid criteria because they had demonstrated “outstanding service” previously and offered services that OneNet did not include on their bid – specifically firewall services.²⁷

²¹ *Id.*

²² *Id.*

²³ Witham Aff, ¶ 13

²⁴ *Id.*

²⁵ *Tennessee Order* at ¶ 9

²⁶ Witham Aff, ¶ 9(iv)

²⁷ Witham Aff, ¶ 15

Additionally, Meet Point received additional points for their direct line of communication – when issues arose with Meet Point the school had the cell phone numbers for the principals in the company. These services and the direct line of communication are especially important to a school district that had no full time IT staff.

The District was especially shorthanded for IT staff – they shared one IT person with six other districts as part of a technology cooperative. That person, Randy Witham, was responsible for the technology needs of 7 districts covering 336 square miles. Mr. Witham was responsible for approximately 20 servers, 2,500 workstations (and tablets), dozens of printers, copiers, network switches, routers, firewall and content filters, in addition to all of the software programs the districts’ were using.²⁸ The district did also employ Beck Burney, a half-time retired teacher in the administrative office to work with the Student Information System and minor software support.²⁹

It was not beneficial for the district to have a service that required a lot of staff time in the restoration process. When the Internet is down, the teacher cannot skip a lesson or wait until next week when the Internet is working again. Every minute of classroom time is valuable, especially with the demands upon the education system today. Similarly, online testing cannot be pushed to a different time. Therefore, service quality (and the ability to quickly restore that service) is an essential component of the selection process.

Meet Point received higher scores in the non-price categories based upon the District’s direct experience with the people that ran Meet Point in previous funding years – the school described this as a “very positive experience.”³⁰ The staff at Meet Point had been responsible for

²⁸ Witham Aff, ¶ 1

²⁹ Witham Aff, ¶ 5

³⁰ Witham Aff, ¶ 15 (a)

initiation of the Internet services; configuration of the router; determining the cause of any issues with the services and resolving those issues; and the configuration, administration and issue-resolution of email services. Their work ethic demonstrated a commitment to providing the best services for the District, and Mr. Witham described their previous service from the people that run Meet Point as “several years of outstanding service.”³¹ As the Commission has noted, “[A] school should have the flexibility to select different levels of services, to the extent such flexibility is consistent with that school’s technology plan and ability to pay for such services.”³² The quality of service and responsiveness when problems arise are especially important to small districts that have few employees focusing on technology.

In contrast, OneNet received lower point awards in the non-price categories. Specifically, Dewar had heard from multiple OneNet customers that OneNet’s network was unstable and “oversubscribed.” The District had heard that OneNet customers were not getting the bandwidth they had ordered.³³ What is the point of going with a lower-priced provider if you don’t get what you are paying for?

In fact, in 2011 OneNet sponsored a K12 conference in OK – *NetPotential* 2011. During this conference, Von Royal, the Executive Director and CIO of OneNet admitted they had problems with their network, and that they were “not pleased with all the levels of service we were providing, so we undertook a major upgrade.”³⁴ The word in the K12 community at that time was that OneNet was oversubscribed (meaning you could order a 100 Mb circuit and only get a portion of that bandwidth) – as Wes Fryer, a respected K12 technology advocate in

³¹ Witham Aff, ¶ 15

³² *Tennessee*, Para. 9

³³ Witham Aff, ¶ 8

³⁴ *Moving at the Speed of Creativity* October 21, 2011, <http://www.speedofcreativity.org/2011/10/21/netpotential-2011-conference-notes-netpotential11/>

Oklahoma, writes: “OneNet has historically over-subscribed its k-12 educational network when it comes to bandwidth.”³⁵ OneNet themselves admitted that their network had not been performing to the standards they would have liked. This was common knowledge in the Oklahoma K12 community at the time.

In the category “understanding the District’s needs,” Meet Point offered services not offered by the other providers, onsite turn up, onsite visits to restore Internet access, and firewall services.³⁶ As noted by the Commission, applicants cannot properly consider price without consideration of what services are being offered. Here, Meet Point offered additional services that OneNet did not include in their bid proposal.

Dewar evaluated the Internet access providers based on categories that it determined were important. That evaluation led Dewar to select the service provider with the offer that best met the District’s needs. It choose Meet Point because it determined that the service history, expertise of the company, location, and the company’s understanding of the District’s needs were superior to that of OneNet – as allowed and encouraged by Commission orders and E-rate program rules.

B. The Commission Has Never Established a Bright-Line Standard, as USAC Has Done Here.

After adopting the guidance on cost-effectiveness in *Tennessee*, the Commission declined to adopt a bright-line standard for cost-effectiveness. In the *Third Report and Order* – released two weeks after *Ysleta* – and in a paragraph directly referencing *Ysleta*, the Commission specifically noted it did not have a bright-line test for cost-effectiveness: “*Nor do our rules*

³⁵ *Moving at the Speed of Creativity*, March 22, 2011, <http://www.speedofcreativity.org/2011/03/22/iphone-tethering-cellular-bandwidth-consumption-the-home-school-internet-access-divide/>

³⁶ Witham Aff, ¶ 15(b)

expressly establish a bright line test for what is a ‘cost effective’ service.”³⁷ The Commission has twice sought comment on whether to adopt specific standards or provide additional guidance with respect to this rule, but has so far declined to do so.³⁸

Contrary to these Commission declarations, however, USAC points to *Ysleta* as support for stating that Dewar’s services are not cost-effective, by stating that the services selected through Dewar’s competitive bidding process were more than two times the OneNet bid. There are several problems with USAC’s reliance upon *Ysleta* here. First, USAC appears to be establishing a bright-line rule even though the Commission has expressly stated that it has not adopted a bright-line standard.³⁹ As USAC is aware, USAC cannot interpret Commission

³⁷ See, e.g., *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Third Report and Order and Second Further Notice of Proposed Rulemaking, FCC 03-323, at ¶ 87 (*Third Report and Order*) (“Our rules do not expressly require, however, that the applicant consider whether a particular package of services are the most cost effective means of meeting its technology needs. Nor do our rules expressly establish a bright line test for what is a “cost effective” service.”); *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Notice of Proposed Rulemaking, FCC 13-100, at ¶ 213 (*Modernization NPRM*) (“[W]e seek to refresh the record on whether we should adopt bright line tests, benchmark or formula for determining the most cost-effective means of meeting an applicant’s technology needs.”). It is notable, however, that the Commission appeared to focus on situations where no bid or only one bid was received, and those situations where applicants are selected expensive priority one services simply because they are supported, even though they are unnecessary or when less expensive services would fill the same need. *Modernization NPRM* at ¶¶ 203, 212-213.

³⁸ In 2003, in the *Third Report and Order*, the Commission sought comment on whether it should codify additional rules to ensure that applicants make informed and reasonable decisions in deciding for which services they will seek discounts. *Third Report and Order*, at ¶ 87. In the *Modernization NPRM*, the FCC sought comment on adopting new standards for cost-effectiveness. *Modernization Order*, at ¶¶ 211-216. In the *First Modernization Order*, the Commission provided limited guidance related to the showing of cost-effectiveness necessary to receive funding for data plans for wireless devices and wireless air cards providing Internet access. The Commission ruled the wireless services are not cost-effective if they are duplicating service already being provided. *Id.* at ¶ 151.

³⁹ See *Third Report and Order* at ¶ 87; *Modernization NPRM* at ¶ 213.

rules.⁴⁰ As such, USAC should not use a bright-line standard of “two times” other bids to determine that services selected through Dewar’s competitive bidding process are not cost-effective. Further, the Commission directed USAC to review its approach to cost-effectiveness reviews and then share the information with applicants and services providers before it attempts to implement a new approach, with oversight performed by the Wireline Competition Bureau and the Office of the Managing Director.⁴¹ As of the date of filing this appeal, USAC has not provided this information. It is a potential violation of the Administrative Procedure Act and, at a minimum, fundamentally unfair to applicants to adopt a new standard of review and simply not tell the applicants what the standard is before holding them to it. In fact, the Commission should seek comment in a rulemaking process to establish a new standard, as it has done twice before without adopting such a standard. As the Commission has recognized by seeking comment on this issue, the Commission should adopt an order revising its own precedent if it desires to do so.⁴²

Second, *Ysleta*’s facts are not applicable to this situation. The Commission in *Ysleta* analyzed a competitive bidding process in which the school district received one or no bids.⁴³ Dewar sought bids through the FCC Form 470 process for its E-rate eligible services. In *Ysleta*, the Commission stated – in dicta – that a price for a piece of *equipment* two to three times “the prices available from commercial vendors would not be cost-effective, absent extenuating

⁴⁰ 47 C.F.R. § 54.702(c).

⁴¹ *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, *Connect America Fund*, WC Docket No. 90-90, Second Report and Order and Order on Reconsideration, FCC 15-189 (2014) at ¶ 126.

⁴² *Third Report and Order*, ¶ 87; *Modernization NPRM*, at ¶ 213.

⁴³ *Ysleta* at ¶ 54.

circumstances.”⁴⁴ The example the Commission gave in *Ysleta* was of a piece of equipment. Equipment, unlike services, are commodities and more easily comparable. Even so, people often make purchasing decisions based on the quality of the brand of the product. The same is true – and even more so – for services. Evaluations of competing services are, of course, different than evaluating bids for the same piece of equipment. When evaluating a service, Applicants will have to consider the reliability of the service, the ability of the service provider to restore service in downtimes (including the technical expertise of the staff), and if the service provides the elements the Applicant would be purchasing (for example, are we really getting the amount of Internet access we have ordered?). Accordingly, USAC should not use *Ysleta* to support its analysis when comparing services, especially when the bids are different and include different, eligible services – such as on-site technical support and firewall services. As described above, Dewar compared the quality of services of Meet Point with the services provided by OneNet and reached the conclusion that Meet Point’s services were superior.

Third, the *Ysleta* decision does not establish a standard that applicants are precluded from selecting bids that are twice as expensive as “the lowest bid.” The standard in *Ysleta* is “two or three times” the prices that are **commercially available** for those services,⁴⁵ which begs the question: *What would have been the pricing of the lower bidders had they included the additional, **eligible** services that Meet Point provides, or if those lower-priced bidders had the level of expertise of the Meet Point staff?* Of course, the answer to that question is “unknown” which means comparing these two bids using the *Ysleta* standard is a moot exercise and is not a fair evaluation of what is and is not cost effective.

⁴⁴ *Id.*

⁴⁵ *Id.*

Is Meet Point's bid "too expensive" for USAC to fund? We disagree with the conclusion that it is. The only way to determine if the bid is "too expensive" is to compare it to other commercially available services. USAC did not compare Meet Point's bid, which provided for different levels of support (cell phone numbers for the principals, on-site support and turn up) and different services (firewall services) than the other bidders, to other similar, commercially available offerings. USAC, in trying to make that determination could have surveyed local providers to determine what the commercially reasonable local price would be for a similar set of services (both scope and quality), or USAC could have used existing information they have gathered via 471 submissions about similar Internet access services provided in Oklahoma. We believe the price that Meet Point charges, given the level of support, the technical expertise of their staff and additional services offered, is commercially reasonable.

Additionally, we note that USAC funded the 2013 FRN for the District, **after conducting a pre-commitment cost-effectiveness review**. USAC conducted this cost effectiveness review and requested copies of all bids and bid evaluation sheets. The district, the first time they had this review, passed. Two weeks after receiving their FCDL, USAC issued another cost effectiveness review. The district sent the exact same bids and the same bid evaluation sheets. The second time around USAC determined that they had failed the review. This kind of "moving target" analysis is simply unfair to the applicant.

Finally, the Commission in *Ysleta* was also describing a situation in which there was only one bidder, and therefore no competitive bidding, this precluding the applicant from any comparison of services or price.⁴⁶ In such a case, the applicant is at the mercy of the service provider's pricing and does not have a choice as to providers. Dewar was not held hostage to

⁴⁶ *Id.*

one provider. It received multiple bids and made a reasoned judgment regarding the services and comparative costs that met its needs through its competitive bidding process.

The reason that Dewar selected a more expensive service provider – even though funding for schools is tight in Oklahoma – is that a properly functioning Internet service is critical to the success of its students. The evaluation categories of location, service history, expertise of the company and understanding the needs of the District all relate to whether the Internet access service will function as expected or be repaired as quickly as possible. Internet access services are as important to Dewar as its other utilities, including heat and water. With the way the curriculum is structured, the schools simply cannot function if the Internet is not accessible. It is not cost-effective for either the District or the E-rate program to pay for an Internet service – no matter how inexpensive it is – that does not further the goal of providing students with access to greater educational opportunities. Further, the District believed it was cost-effective for its needs as a small, rural district, to pay extra for a service that included enhanced levels of support and protection (*i.e.*, the firewall).⁴⁷ Dewar chose the service provider that was most cost-effective for its needs.

C. USAC's Decision in This Case Undermines Program Policies and Goals

Application of USAC's decision on a consistent basis will not further E-rate program policies and goals. First, it will force applicants in some cases to select a provider that does not offer the most cost-effective services for the applicants' needs – and likely could cause applicants to perform a disingenuous bid review process. Second, this decision could require applicants to weight price more heavily in the bid evaluation process – which is not required by

⁴⁷ Witham Aff, ¶ 15(b)

Commission rules – in order to try to meet USAC’s newly created standard. Finally, the District will suffer significant harm if its funding is denied.

First, USAC’s attempt to second-guess the work of the District will force applicants to select a lower-priced offering, regardless of quality or other relevant criteria, so they will not be subject to second-guessing months or years after the conclusion of the competitive bidding process. To prevent this potential denial of funding, applicants will be forced to select a lower-price bidder, notwithstanding their review of the vendors’ bids using the other factors important to the individual applicants.

Using such a standard will lead to a disingenuous bidding process. Applicants are required to consider all valid bids received.⁴⁸ Is it really USAC’s position that an applicant must evaluate a bid that is two times more expensive than the other bids, but that bid (under USAC’s interpretation of *Ysleta*) must always lose? Are applicants supposed to manipulate the evaluation process so that the more expensive vendor receives fewer points, notwithstanding the reviewer’s actual analysis of the bid responses? A fair and open competitive bidding process cannot have pre-determined outcomes. Such a result could cause applicants to violate their own competitive bidding requirements. Further, what is the point of allowing the applicant the “maximum flexibility” to consider service history, quality of service, or other reasonable factors of a bid that USAC has pre-determined must always lose? An applicant that follows all of its own state and local procurement rules should not be prohibited from selecting a bid that meets its needs, but for a non-codified standard that USAC has decided to impose. If it is truly the intention that bids that are twice as much as the lowest bid are, on face, not cost-effective and should never win, then the program should explicitly allow applicants to disqualify those bids before the bid

⁴⁸ 47 C.F.R. § 54. 511(a).

evaluation process begins, even if no disqualification factors are listed by the applicant in the FCC Form 470 and/or RFP. As it stands right now, applicants are required by FCC rules to evaluate all bids received and applicants do not have the authority to disqualify bids that are twice as expensive as the lowest bid received.

Second, USAC's process to determine cost-effectiveness is flawed. USAC's current interpretation of Ysleta places the applicant in an untenable position - the applicant is required to evaluate all bids, required to use specific bid criteria weighted in a specific manner and conduct an open and fair competitive bidding process. Even when an applicant complies with all of these rules and follows all of the approved processes, if a bid is awarded the most points and determined to be the best fit for the applicant's needs, but is twice as much as a lower bid, what can an applicant do? The applicant can't simply throw out the bid or disqualify it – not only would the winning bidder have legal recourse against the applicant should the applicant throw out that bid, but the applicant could very well be in violation of local or state competitive bidding rules for not proceeding with the bid that was awarded the most points. Under USAC's interpretation of Ysleta, that bid should never win, but using the FCC's competitive bidding process and rules it did. What is the point of following all of the competitive bidding rules if it produces an outcome that USAC won't fund?

There are no allegations of competitive bidding rule violations by the District. USAC's concerns about cost-effectiveness seem better directed at the bid evaluation process that produced an outcome that USAC deems too expensive (perhaps the Commission should set more stringent procedures for weighting Price of Eligible Goods and Services at 50% of the total available points) than directing those concerns at the District. How can a winning bid be

determined to be “too expensive” by USAC if the applicant properly evaluated price (and correctly awarded points) according to the Commission’s rules and procedures?

Third, USAC’s denial suggests the price differential should have been weighted more heavily than the District weighted it. To reach such a result, USAC is effectively overruling Commission precedent that only requires that pricing be given at least one more point than any other individual category.⁴⁹

At a minimum, USAC’s decision here substitutes its judgment on the merits of the competitive bidding process for that of the District. When the Commission established the rules for the E-rate program in 1997, it stressed that a fundamental principle would be the determination of local needs by local decision-makers regarding what services would work best for that school or school district.⁵⁰ It did not try to impose a top-down regime where the federal government decided the merits of each service choice of a particular school or district. The idea was that the thousands of schools and districts would know their own technology needs better than the federal government. The Commission has not wavered from this principle. If this decision stands, USAC would be free to evaluate the merits of the respective bidders without the knowledge that applicants have regarding service quality, service history, personnel

⁴⁹ As described above, USAC appears to be going beyond Commission precedent to establish a new standard without basis in Commission precedent. USAC, however, is not authorized by the Commission to interpret Commission rules. Under the Commission’s rules, USAC “may not make policy, interpret unclear provisions of the statute or rules, or interpret the intent of Congress.” 47 C.F.R. § 54.702(c). To the extent the Commission’s rules are unclear, USAC has no authority to act without first seeking guidance from the Commission. *See id.* Moreover, the District proceeded entirely in accordance with Commission precedent when it evaluated relevant factors other than price. As a result, USAC has acted outside its authority by finding that Dewar, despite having strictly followed the Commission’s rules and precedent, failed to adhere to the Commission’s requirements. Furthermore, if the Commission decides that a revision to the rule would advance program goals, such an interpretation should be provided by the Commission before it is applied, and following a notice-and-comment rulemaking.

⁵⁰ *Universal Service Order* at ¶¶ 481, 574.

qualifications, and the value they are receiving for the services purchased. There is simply no way USAC can make a proper evaluation of the bids without that information. In this case, while Dewar has attempted to provide that information in responses to USAC's reviews, it appears that USAC has discounted the information or failed to take it into consideration, focusing exclusively on the price of the services.

D. If USAC Still Finds the Services Were Not Cost-Effective, USAC Should Commit Funding for Dewar at a Level That Is Cost-Effective

USAC should, at a minimum, approve part of Dewar's funding request. There is precedent for such an approach. In the *Fifth Report and Order*, the Commission provided direction for USAC for recovery of funding when it was improperly disbursed.⁵¹ Cost-effectiveness is not directly addressed in that order.⁵² However, some of the other illustrations provide guidance for the cost-effectiveness rule. If a carrier charges the beneficiary "an inflated price," the *Fifth Report and Order* directs that USAC should recover amounts disbursed in excess of what similar situated customers are normally charged in the marketplace."⁵³ Similarly, here, if the standard is that cost two times other pricing is not cost-effective, then, by implication,

⁵¹ *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Fifth Report and Order and Order, FCC 04-190 (2004) at ¶¶ 15-44 (*Fifth Report and Order*).

⁵² *Id.* The Commission states that full recovery is appropriate for competitive bidding violations. However, this is not a competitive bidding violation. USAC found no issues with the competitive bidding process; it disagreed with the outcome. There are no allegations that the process was not fair and open, price was not the primary factor or that bids were not solicited for at least four weeks.

⁵³ *Fifth Report and Order* at ¶ 30. The Commission also discusses situations in which the beneficiary has requested a "clearly excessive" level of support. That situation is not applicable here, as the examples are those when the beneficiary is requesting a number of lines or equipment that is beyond what is necessary. There is no dispute here that the District requires this level of capacity for broadband services, nor are there any allegations that these services are duplicative or redundant.

a price 1.9 times the cost is cost-effective. As such, USAC could calculate the cost of the eligible service at 1.9 times that of a lower price and fund that amount for Dewar. In addition, the Commission has ruled that, when two providers are providing the same service and one is less expensive, the applicant shall be reimbursed for its Internet connection at the lower rate.⁵⁴ Following that logic, USAC could reimburse the applicant at the rates offered by a different provider. Such an approach would minimize the harm caused by USAC's delay in determining it had an issue with Dewar's selection of Meet Point as its service provider.

* * *

For the reasons stated above, the District respectfully requests that USAC reconsider its initial decision and grant its funding requests for FY 2013. As the foregoing has demonstrated, the District met the Commission requirements for competitive bidding, and selected the most cost-effective bid available to meet its needs.

List of Exhibits

Exhibit 1: Request for Proposal

Exhibit 2: Bids Received

Exhibit 3: 471 Application

Exhibit 4: COMAD

⁵⁴ *Schools and Libraries Universal Service Support Mechanism*, Requests for Review by Macomb Intermediate School District, CC Docket No. 02-6, Order, FCC 07-64 at ¶ 9 (2007). This rule is applicable when the applicant could have purchased all of the services from one provider at the lower rate but chose not to, and when the services provided do not exceed the total capacity required.

Exhibit 5: Administrator Decision Letter

Exhibit 6: Bid Evaluation Sheets

Affidavit

**Before the Federal Communications Commission
Washington, D.C.**

In the Matter Of)	
)	
)	
Schools and Libraries)	CC Docket No. 02-6
Universal Service Support Mechanism)	
)	
Request for Review and/or Waiver)	Application Number: 881181.
By Dewar ISD #8)	
of the Funding Decisions by the)	
Universal Service Administration Company)	

Affidavit of Dewar ISD 8

I, Randy Witham, swear:

BACKGROUND

1. I am Director of Technology for Henryetta Public Schools since 2004. Recognizing the growth of technology in education, the need for local knowledgeable support and the limited funding resources available, at the time of my hire a technology cooperative was formed between Henryetta School District and six other small rural school districts in the surrounding area including Dewar School. Henryetta, being the larger of the rural districts with an average student population of around 1300, became the LEA of the cooperative and thus is where my office is located. The six member districts range in student population from 60 to 420. All districts prior to 2004 were using non-technical, full time teachers or administrative personnel on site to procure, install, troubleshoot, identify problems and repair. As the sole IT employee in the co-op, I have become the go-to person for all technology related items including 1) hardware (servers, workstations, laptops, tablets, printers, scanners, copiers, network switches, routers,

firewalls, content filters, telephony) procurement, configuration, installation, troubleshooting and repair 2) Software procurement, installation, configuration and troubleshooting 3) Network cabling installation and repair 4) Website administrator 5) Email administrator 6) End-of-year online testing technical contact 7) Erate coordinator.

I do not sell any equipment. My role is as IT support, not a vendor that sells anything to the district. Since 2004 the amount of technology, including network-connected devices, in the co-op has grown exponentially. What has not grown is the IT staff. We are still a one-person technology co-op covering approximately 336 square miles and managing 1) approximately 20 servers, 2) approximately 2,500 workstations including tablets and laptops, 3) dozens of printers, copiers, network switches, routers, firewalls and content filters 4) software programs including school cost accounting, student information systems, integrated learning systems, 5) over 125 VoIP telephones.

2. I began work at Ryal School in 1988 as encumbrance clerk. I was given the task of converting financial record keeping from paper-based to computer-based on an Apple IIgs. This was also around the time schools started shifting away from Apple computers toward IBM-based Personal Computers. With my help, Ryal became one of the first, if not the first, districts in the area to have an IBM compatible computer lab and Internet access available in a classroom in the form of AOL dial-up. Over time, I moved from the admin office at Ryal to full time computer/technology work for area school districts eventually moving to Henryetta School and forming our current technology cooperative.
3. I graduated valedictorian from Graham High School. I graduated from East Central University with a BS in mathematics.

4. Dewar School is a small rural district North of Henryetta in Dewar, Oklahoma. The district enrolls approximately 420 students and maintains 11 campus buildings for academic use.
5. Dewar School employs Becky Burney, a half-time retired teacher in the admin office to work with the Student Information System as well as acting as the District Test Coordinator and taking care of minor computer issues which consists mostly of software support. The district relies on me to fulfill most other technology needs. Even as the district struggles from year to year with limited funds, it is important that we maintain a reliable and secure Internet connection which includes the constant need to update/upgrade Internet bandwidth, network equipment (router, switches, firewall, content filter), network cabling, computer workstations and the service and support that goes along with it all.

IMPORTANCE OF TECHNOLOGY

6. Dewar School relies heavily on Internet connectivity for online student information systems, online teacher gradebooks, email for teacher/parent communication, web design for lesson plan posting, integrated learning systems, streaming instructional videos, online benchmark testing, and end-of-year online state testing. During the one-month window for end-of-year state testing, it is my responsibility to maintain 16 testing labs with approximately 350 testing computers across 7 school districts including a lab with 25 computers at Dewar School. Needless to say, time management along with Internet uptime and high security (we don't want to wind up on the news for having sensitive student and financial information stolen) are extremely important in keeping the district running. To spend days or even hours trying to track down Internet connectivity issues

can take away precious time to dedicate to local student technology issues especially during the all-important end-of-school online state testing.

7. It is important for Dewar School to have a fast, reliable and secure Internet connection. If Dewar's Internet goes down, the student information system will not work, the online gradebook will not work, teacher/parent communication via email will not work, and online instruction will not work. Most importantly, if the Internet connection goes down during the end-of-year online state testing window, student's focus, concentration and confidence can be adversely affected as well as possibly causing the district to miss important submission deadlines.
8. While the district had not directly used OneNet in the past, both myself and the superintendent had heard of outage/unreliable service problems concerning OneNet from other schools in the state, and had also heard that their service was oversubscribed (meaning you don't get what you pay for). It was our understanding that OneNet customers might contract for a 100 Mb circuit and actually only receive 45 Mb of access.

THE PROCUREMENT

9. In 12 years as the cooperative tech director, I, along with the district's administration, have evaluated the technology needs of the district as follows:
 - i. We needed affordable, reliable connectivity sufficient to handle our growing online needs;
 - ii. We needed reliable connectivity to support the learning and teaching experiences; and
 - iii. We needed quality connectivity to assure that the district received content appropriate to our needs, and filtered out content that was inappropriate.

- iv. We needed network protections (i.e., firewall) sufficient to protect our network from hackers, spam, attacks, and viruses.
 - v. We needed to ensure that, if the network went down, our provider would be available to assist with restoring service as soon as possible.
10. Accordingly, the district decided what evaluation criteria to use to evaluate the bids received.
11. The district received a list of possible categories from our consultant, CRW Consulting, but the district determined which categories we would use for evaluation of the bids.
12. The competitive bidding process was fair and open. Meet Point did not have any role in the development of the RFP nor did it have any information not available to any other bidder.

THE EVALUATION PROCESS 2013 (Internet)

13. The district decided to use Price of Eligible Goods & Services, Service History, Expertise of Company, Understanding of Needs/Completeness of Bids and Location of Company as the five categories used in the evaluation. Since price should always carry the most weight, it was given the highest points possible of up to 25. Because the district believes a track record (good or bad) is extremely important, service history was given a maximum points possible of 20. Along with service history, first-hand knowledge of the expertise of a company was also given a maximum possible points of 20. The importance for the company to understand the needs for our particular district also garnered a maximum points possible of 20. Lastly, location of company was given a maximum points possible of 15. Company location closer to Dewar could mean a quicker arrival time for critical on-site visits for troubleshooting and repairs.

14. In preparing each evaluation we took into consideration cost, quality of service, availability of support including company location, ability to meet the district's scheduling requirements, potential risks with providers and past experience with personnel. If there was no service history, we considered things we had heard or read about the service provider.
15. The final decision for the ISP selection always comes down to the needs of the district as determined by district's board of education and utilizing the bid evaluations as prepared by myself with assistance from the superintendent from the bid documentation received from the bidders.
- a. Price of Eligible Goods & Services: Twenty-five points was awarded to the lowest cost bidder, OneNet. Twenty-four points to the second lowest (Meet Point.)
- Service History: Zero points was awarded to OneNet because the district has no history with the vendor and because myself and the superintendent had heard of oversubscribing and outage problems with OneNet. Ten points was awarded to Meet Point. Even though Meet Point was a relatively new ISP, the district had several years of very positive experience with the people that operate Meet Point (Mike Pennell and Beverly Fielding). The people that run Meet Point, Mike and Bev, also run another company called NewNet 66. The district has had several years of outstanding service from NewNet 66. That company, NewNet66, was previously responsible for onsite turn of up of our Internet services, onsite technical support for our Internet connection, and firewall protection from our ISP (as a subcontractor for Cox, our previous ISP). We knew the people we were

dealing with at Meet Point and had over three years of experience with them for our Internet service previously. Additionally, following the link on the Meet Point bid (For more information please visit NewNet66's description of services overview at www.newnet66.org) lead us to realize that Meet Point provided additional services that the other bidders did not list on their bids. These services include: providing Internet Maintenance including onsite circuit turn-up, head-end firewall service, firewall configuration, proactive 24x7 service outage calls, direct line to 24x7 technical support person (no call centers), and on-site technical support.

Expertise of Company: Fifteen points was awarded to OneNet. OneNet did not receive the maximum points possible because the district had no history with the company and thus had no first-hand knowledge of the company's expertise along with things the superintendent and I had heard (oversubscribing and outage problems.) Twenty points was awarded to Meet Point because of having worked with the people that run Meet Point, Mike and Bev, and having had several years of outstanding service from NewNet 66.


Understanding of Needs/Completeness of Bids: Ten points was awarded to OneNet and 20 points was awarded to Meet Point because Meet Point had a better understanding that the district needed more than just a connection to the Internet.

Location of Company: Ten points was awarded to OneNet and 15 points to Meet Point because Meet Point is located about an hour away and OneNet about an hour and an half.

b. Meet Point included 24x7 Internet Access troubleshooting & repair, onsite visits to restore Internet Access, head-end firewall. These services were important to the district, especially because we share an IT director with six other schools – the ability for the ISP to keep us out of trouble and restore service quickly was paramount in our decision making process.

16. The total points awarded to Meet Point were 89.

I certify under penalty of perjury that the foregoing is true and correct.


[Name] 27600 S. 185 Road
[Address] Henryetta, OK 74437

Subscribed and sworn to before me this 11th day of July, 2016.



Exp. 5/7/2020

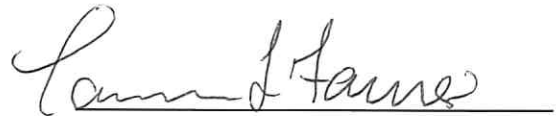

Notary Public

Exhibit 1: Request for Proposal



918.445.0048

Request for Proposal

137

Sign up

Sign In

[Home](#)[About Us](#)[Services](#)[e-Rate Info](#)[Testimonials](#)[Contact](#)**RPF Posted**

15 October 2012

Dewar ISD 8**District Address**

204 E 5th St., Dewar, OK 74431

RFP ID: 389760001050053**Bid Deadline:**

12 November 2012

Questions Due By:

05 November 2012

**RFP Requirements**

- All Questions and Bids must be submitted using the on-line RFP system. If for some reason the system is down before the respective deadline, please email your bid to info@crwconsulting.com or fax it to 918.445.0049. Bids or questions submitted in this fashion will be disqualified if the on-line system is active at the time of submission.
- Bidder must agree to participate in USF Program (AKA "E-rate") for the corresponding funding year.
- Please include the correct Service Provider Identification Number (SPIN) on your bid.
- By submitting a bid, bidder certifies that the bidder does have a valid (non-red light status) SPIN for the E-rate program at the time of submission. Should the Applicant discover that the bidder is on red light status, or if the FCC classifies the bidder as on red-light status before work is performed and invoices are paid, the contract will be null and void and the applicant will have no payment obligations to the bidder.
- Bidder is expected to provide the lowest corresponding price per E-rate rules. See <http://www.usac.org/sl/service-providers/step02/lowest-corresponding-price.aspx> for details.
- Contracts should be contingent upon E-rate funding unless stated otherwise.
- Bidder must agree to provide the Applicant the choice of discount methods (SPI or BEAR).
- Bidder will be automatically disqualified if the District determines that the bidding company has offered any employee of the District any individual gift of more than \$20 or gifts totaling more than \$50 within a 12 month period.
- Depending on E-rate funding, the district may choose to proceed with all or part of the projects, at the district's discretion.
- Applicant reserves the right to voluntarily renew any contract for up to (5) consecutive one-year terms upon written notice. **We highly suggest your submitted bids and contracts include this statement.**

Services and Equipment Requested

Internet Access - minimum 40 Mb bandwidth, terminating address 204 East 5th, Dewar 74431 (918)652.

You need to [login](#) / [register](#) to upload bid.



Questions Received with District Answers:

[Submit a Question](#)

No Data

[Home](#) [About Us](#) [Services](#) [e-Rate Info](#) [Testimonials](#) [Contact](#)

Sign up for our newsletter :



Your Email

Submit

©2012 CRW Consulting

Powered by: Phillips360

P.O. Box 701713
Tulsa, OK 74170-1713
Voice: (918) 445-0048
Fax: (918) 445-0049

Exhibit 2: Bids Received



Meet Point Networks, LLC

Customer Service Proposal

Proposal Date 10-16-2012

Proposal # MPN 1220

SPIN# 143035519

Meet Point Networks Rep: Mike Pennell
Phone Number: 918.633.6896

Meet Point Networks
P.O. Box 339
Bixby, OK 74008
Voice 918.557.0277
www.meetpointnetworks.com

Page one (1) of this document is for Internet access pricing options and is informational only.
Page two (2) through four (4) is the service agreement contract.

Any estimates in this bid based on funding from the Oklahoma Universal Service Fund are subject to application and approval by the Oklahoma Corporation Commission and any difference in actual OUSF funding and the monthly recurring charges shall be the responsibility of the customer.

Customer Information

Customer Name: Dewar Public School
Street Address: 204 E 5th ST
City/St/Zip: Dewar OK 74431
Federal Tax ID:

Taxes and Fees Not Included

	Service Description	New Qty	Terms (months)	Type	Monthly Recurring Charge	Annual Charge	One Time Activation and Setup
1	40 Mb Internet Access	1	60	New	\$7,571.94	\$90,863.28	\$0.00
2							
3							
4							
5							
6							

NewNet 66 Services

~ NewNet 66 Services are included in the pricing above.

~ 24 x 7 Internet Access Troubleshooting & Repair - NewNet 66 will work to restore functional Internet access – this includes working with all of the necessary telecommunication providers and calling in trouble tickets, if necessary.

~ On site visits to restore Internet Access, if necessary.

~ Unlimited Email Accounts supporting POP3, Web Mail, and IMAP. (student accounts available on request)

~ Web Site Hosting Service - 10 Gigabit of space. This service does not include the creation or modification of content.

~ Firewall management to include Juniper Networks and Fortigate firewalls.



Meet Point Networks, LLC

Meet Point Networks Service Agreement

10-16-2012

Fax signed copy to 918.512.4400

or email to

contracts@meetpointnetworks.com

SPIN# 143035519

Customer Name: Dewar Public School

Street Address: 204 E 5th ST

City/St/Zip: Dewar OK 74431

Federal Tax ID:

Meet Point Networks

P.O. Box 339

Bixby, OK 74008

Voice 918.557.0277

Check the service you want below. Select only one.

	Service Description	New Qty	Unit Price	Terms (months)	Type	Monthly Recurring Charge	Annual Charge	One Time Activation and Installation
1	<input type="checkbox"/> 40 Mb Internet Access	1		60	New	\$7,571.94	\$90,863.28	\$0.00
2	<input type="checkbox"/>							
3								
4								
5								
6								

Any estimates in this bid based on funding from the Oklahoma Universal Service Fund are subject to application and approval by the Oklahoma Corporation Commission and any difference in actual OUSF funding and the monthly recurring charges shall be the responsibility of the customer.

E-Rate Customers E-rate customers: The term of this contract is 60 months. During the term of this contract, the applicant may choose any of the above service levels and upgrade to those levels upon written notice to Meet Point Networks. Meet Point Networks will determine the turn up time after the customer contacts us to begin the process.

Customer Authorized Signature

Meet Point Networks Authorized Signature

Mike Pennell

Signature

Signature

Mike Pennell

Print

Print

President

10-16-2012

Title or Position

Date

Title or Position

Date

By signing this Service Agreement, you represent that you are the authorized Customer representative and the above information is true and correct and you accept this Agreement. Both parties agree that each party may use electronic signatures to sign this Service Agreement.

Meet Point Networks may withdraw the proposal at any time prior to Customer signature. If within (30) days after Customer signature, Meet Point Networks determines that customer location is not serviceable under Meet Point Networks normal installation guidelines, Meet Point Networks may withdraw this Service Agreement without liability. Both parties agree that each party may use electronic signatures to sign this Service Agreement.

1. Tariffs/Service Guide If Customer is purchasing any Services that are regulated by the FCC or any state regulatory body ("Regulated Services"), then Customer's use of such Regulated Services is subject to the regulations of the FCC and the regulatory body of the state in which the Customer location receiving these Regulated Services is located (which regulations are subject to change), as well as the rates, terms, and conditions contained in tariffs on file with state and federal regulatory authorities. Termination fees include, but are not limited to, nonrecurring charges, charges paid to third parties on behalf of Customer, and the monthly recurring charges for the balance of the Term.

2. Service Start Date and Term This Agreement shall be effective upon execution by the parties. The "Initial Term" shall begin upon installation of Service and shall continue for the applicable Term commitment set forth on the Cover Page; provided that if Customer delays installation or is not ready to receive Services on the agreed-upon installation date, Meet Point Networks may begin billing for Services on the date Services would have been installed. Meet Point Networks shall use reasonable efforts to make the Services available by the requested service date. Meet Point Networks shall not be liable for damages resulting from delays in meeting service dates due to construction delays or reasons beyond its control. If Customer delays installation for a period of three (3) months or longer after the parties' execution of this Agreement, Meet Point Networks reserves the right to terminate this Agreement immediately at any time thereafter and Customer shall be responsible for the full amount of construction costs and any other related costs incurred by Meet Point Networks as of the date of termination. AFTER THE INITIAL TERM, THIS AGREEMENT SHALL AUTOMATICALLY RENEW FOR ONE (1) YEAR TERMS (EACH AN "EXTENDED TERM") UNLESS A PARTY GIVES THE OTHER PARTY WRITTEN TERMINATION NOTICE AT LEAST THIRTY (30) DAYS PRIOR TO THE EXPIRATION OF THE INITIAL TERM OR THEN CURRENT EXTENDED TERM. "Term" shall mean the Initial Term and Extended Term (s), if any. Meet Point Networks reserves the right to increase rates for all Services by no more than ten percent (10%) during any Extended Term by providing Customer with at least sixty (60) days written notice of such rate increase. For the avoidance of doubt, promotional rates and promotional discounts provided to Customer will expire at the end of the Initial Term or earlier as set forth in the promotion language. Customer's payment for Service after notice of a rate increase will be deemed to be Customer's acceptance of the new rate.

3. Termination Customer may terminate any Service before the end of the Term selected by Customer on the Cover Page; provided, however, if Customer terminates any such Service before the end of the Term (except for breach by Meet Point Networks), unless otherwise expressly stated in the General Terms, Customer will be obligated to pay a termination fee equal to the nonrecurring charges (if unpaid) and 100% of the monthly recurring charges for the terminated Service(s) multiplied by the number of full months remaining in the Term. This provision survives termination of the Agreement. If Meet Point Networks is delivering Services via wireless network facilities and there is signal interference with any such Service(s), Meet Point Networks may terminate this Agreement without liability if Meet Point Networks cannot resolve the interference by using commercially reasonable efforts.

4. Payment Customer shall pay for all monthly Service charges, plus one- time activation and set up, and/or construction charges. Unless stated otherwise herein, monthly charges for Services shall begin upon installation of Service, and installation charges, if any, shall be due upon completion of installation. Any amount not received by the due date shown on the applicable invoice will be subject to interest or a late charge no greater than the maximum rate allowed by law. Customer acknowledges and agrees that if Customer fails to pay any amounts when due and fails to cure such non-payment upon receipt of written notice of non-payment from Meet Point Networks, Customer will be deemed to have terminated this Agreement and will be obligated to pay the termination fee described in Section 5, above. If applicable to the Service, Customer shall pay sales, use, gross receipts, and excise taxes, access fees and all other fees, universal service fund assessments, bypass or other local, state and Federal taxes or charges, and deposits, imposed on the use of the Services. Taxes will be separately stated on Customer's invoice. No interest will be paid on deposits unless required by law.

5. Service and Installation Meet Point Networks shall provide Customer with the Services identified on the Cover Page and may provide related facilities and equipment, the ownership of which shall be retained by Meet Point Networks (the "Meet Point Networks Equipment"), or for certain Services, Customer, may purchase equipment from Meet Point Networks ("Customer Purchased Equipment"). Customer is responsible for damage to any facilities or equipment installed or provided by Meet Point Networks (the "Meet Point Networks Equipment"). Customer may use the Services for any lawful purpose, provided that such purpose (a) does not interfere or impair the Meet Point Networks network or Meet Point Networks Equipment and (b) complies with the AUP. Customer shall use the Meet Point Networks Equipment only for the purpose of receiving the Services. Customer shall use Customer Purchased Equipment in accordance with the terms of the related equipment purchase agreement. Unless provided otherwise herein, Meet Point Networks shall use commercially reasonable efforts to maintain the Services in accordance with applicable performance standards.

6. General Terms The General Terms are hereby incorporated into this Agreement by reference. Meet Point Networks, in its sole discretion, may modify, supplement or remove any of the General Terms from time to time, without additional notice to Customer, and any such changes will be effective upon Meet Point Networks publishing such changes on the Meet Point Networks web site. BY EXECUTING THIS AGREEMENT AND/OR USING OR PAYING FOR THE SERVICES, CUSTOMER ACKNOWLEDGES THAT IT HAS READ, UNDERSTOOD, AND AGREED TO BE BOUND BY THE GENERAL TERMS.

7. LIMITATION OF LIABILITY MEET POINT NETWORKS AND/OR ITS AGENTS SHALL NOT BE LIABLE FOR DAMAGES FOR FAILURE TO FURNISH OR INTERRUPTION OF ANY SERVICES, NOR SHALL MEET POINT NETWORKS OR ITS AGENTS BE RESPONSIBLE FOR FAILURE OR ERRORS IN SIGNAL TRANSMISSION, LOST DATA, FILES OR SOFTWARE DAMAGE REGARDLESS OF THE CAUSE. MEET POINT NETWORKS SHALL NOT BE LIABLE FOR DAMAGE TO PROPERTY OR FOR INJURY TO ANY PERSON ARISING FROM THE INSTALLATION OR REMOVAL OF EQUIPMENT UNLESS CAUSED BY THE NEGLIGENCE OF MEET POINT NETWORKS. UNDER NO CIRCUMSTANCES WILL MEET POINT NETWORKS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, ARISING FROM THIS AGREEMENT OR ITS PROVISION OF THE SERVICES.

8. WARRANTIES EXCEPT AS PROVIDED HEREIN, THERE ARE NO OTHER AGREEMENTS, WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, RELATING TO THE SERVICES. SERVICES PROVIDED ARE A BEST EFFORTS SERVICE AND MEET POINT NETWORKS DOES NOT WARRANT THAT THE SERVICES, EQUIPMENT OR SOFTWARE SHALL BE ERROR-FREE OR WITHOUT INTERRUPTION. INTERNET SPEEDS WILL VARY. MEET POINT NETWORKS MAKES NO WARRANTY AS TO TRANSMISSION OR UPSTREAM OR DOWNSTREAM SPEEDS OF THE NETWORK.

9. Public Performance. If Customer engages in a public performance of any copyrighted material contained in any of the Services, Customer, and not Meet Point Networks, shall be responsible for obtaining any public performing licenses at Customer's expense.

E-Rate Funding Year 2013



**SPIN 143015254
FCC RN 001199307**

**MTM – INTERNET ACCESS
(Month to Month service -- no contract needed)**

Dewer ISD

Proposal Contingent upon E-Rate Funding

<u>Internet Access Service</u>	<u>Monthly\$</u>	<u>Annual\$</u>
50mb	\$2,200.00	\$26,400.00

OneNet Internet services include the connection from your location to our hub site, unlimited email services, web hosting, and related technical support.

Customer will need to provide their own router:

- 50mb will require router with 2 Fast Ethernet Interfaces; one interface for internet connection and one for LAN

Proposed By:

A handwritten signature in black ink, appearing to read "Ami Layman".

Ami Layman

Accounts Receivable Supervisor
OneNet
PO Box 108800
Oklahoma City, OK 73101-8800
(888) 566-3638

Accepted By:

Authorized Signature

Date

If you select OneNet as your provider, please sign and date this with your allowable contract date based on your 470 posting.

Please contact OneNet when you are ready to order services.

RETAIN ORIGINAL FOR YOUR ERATE RECORDS

Exhibit 3: 471 Application

FCC Form 471

Approval by OMB
3060-0806**Schools and Libraries Universal Service
Description of Services Ordered and Certification Form 471****Estimated Average Burden Hours per Response: 4 hours**

This form is designed to help schools and libraries to list the eligible services they have ordered and estimate the annual charges for them so that the Fund Administrator can set aside sufficient support to reimburse providers for services.

Please read instructions before beginning this application. (You can also file online at www.usac.org/sl.)

The instructions include information on the deadlines for filing this application.

Applicant's Form Identifier (Create an identifier for your own reference) Dewar Y16	Form 471 Application #: 881181 (To be assigned by administrator)
Block 1: Billed Entity Address and Identifications	
<p>1 Name of Billed Entity DEWAR INDEP SCHOOL DISTRICT 8</p> <p>2 Funding Year 2013</p> <p>3a Entity Number 140176</p> <p>3b FCC Registration Number 0012679981</p> <p>4a Street Address, P.O. Box, or Route Number 204 E 5TH ST</p> <p>City DEWAR State OK Zip Code 74431-</p> <p>4b Telephone Number (918) 652-9625</p> <p>4c Fax Number (918) 652-3096</p> <p>5a Type of Application (check only one)</p> <p><input type="radio"/> Individual School (individual public or non-public school)</p> <p><input checked="" type="radio"/> School District (LEA; public or non-public [e.g. diocesan] local district representing multiple schools)</p> <p><input type="radio"/> Library (including library system, library outlet/branch or library consortium as defined under LSTA)</p> <p><input type="radio"/> Consortium (intermediate service agencies, states, state networks, special consortia of schools and/or libraries)</p> <p><input type="radio"/> Statewide application for (enter 2-letter state code) representing (check all that apply)</p> <p><input type="checkbox"/> All public schools/districts in the state</p> <p><input type="checkbox"/> All non-public schools in the state</p> <p><input type="checkbox"/> All libraries in the state</p> <p>5b Recipient(s) of Services:</p> <p><input type="checkbox"/> Private <input checked="" type="checkbox"/> Public <input type="checkbox"/> Charter</p> <p><input type="checkbox"/> Tribal <input type="checkbox"/> Head Start <input type="checkbox"/> State Agency</p>	
Entity Number: 140176	Applicant's Form Identifier: Dewar Y16
Contact Person: Karla Hall or Chris Webber	Contact Phone Number: (918) 445-0048
Block 1: Billed Entity Address and Identifications (continued)	
<p>6a Contact Person's Name Karla Hall or Chris Webber</p> <p>If the Contact Person's Street Address is the same as Item 4 above, check here. <input type="checkbox"/> If not, complete Item 6b.</p> <p>6b Street Address, P.O. Box, or Route Number NOTE: USAC will use this address to mail correspondence about this form. PO Box 701713</p> <p>City Tulsa State OK Zip Code 74170-1713</p> <p>Check the box next to your preferred mode of contact and provide your contact information. One box MUST be checked and an entry provided.</p> <p><input type="checkbox"/> 6c Telephone Number (918) 445 - 0048</p> <p><input type="checkbox"/> 6d Fax Number (918) 445 - 0049</p> <p><input checked="" type="checkbox"/> 6e E-Mail Address info@crwconsulting.com Re-enter E-mail Address info@crwconsulting.com</p> <p>6f Holiday/vacation/summer contact information: please include name of alternate contact (if applicable) and alternate phone, fax or E-mail address</p> <p>If a consultant is assisting you with your application process, please complete Item 6g below:</p> <p>6g Consultant Name Karla Hall Name of Consultant's Employer CRW Consulting Consultant's Street Address P.O. Box 701713</p> <p>City Tulsa State OK Zip Code 74170 Consultant's Telephone Number (918) 445-0048 Ext. Consultant's Fax Number (918) 445-0049 Consultant's E-mail Address info@crwconsulting.com Re-enter E-mail Address info@crwconsulting.com Consultant Registration Number 16024800</p>	

Entity Number: 140176		Applicant's Form Identifier: Dewar Y16	
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Complete this information on EVERY Form 471 you file for the services requested on that form. Please complete all rows that apply to services for which you are requesting discounts.			
Schools/school districts complete the left-hand column and libraries complete the right-hand column. Consortia complete all that apply.			
Block 2: Impact of Services Ordered for Schools and Libraries from this Form 471			
		Schools	Libraries
7a Number of students or patrons to be served		402	0
b Telephone service: Number of classrooms or rooms with phone service		5	0
c Direct connections to the Internet: Number of drops		350	0
d Number of classrooms or rooms with Internet access		45	0
e Number of computers or other devices with Internet access		225	0
f Number of dial-up Internet access and other connections of up to 200 kbps :		0	0
g High-speed Internet access services: Number of buildings served at the following speeds (please use advertised download speed coming into building, not actual speed in classroom or work area):	At or greater than 200 kbps and less than 1.5 mbps	0	0
	At or greater than 1.5 mbps and less than 3 mbps	0	0
	At or greater than 3 mbps and less than 10 mbps	0	0
	At or greater than 10 mbps and less than 25 mbps	0	0
	At or greater than 25 mbps and less than 50 mbps	9	0
	At or greater than 50 mbps and less than 100 mbps	0	0
	Greater than 100 mbps	0	0
Block 3:			
8 [Reserved]			

Entity Number: 140176						Applicant's Form Identifier: Dewar Y16					
Contact Person: Karla Hall or Chris Webber						Contact Phone Number: (918) 445-0048					

Block 4: Discount Calculation Worksheet **Worksheet - 1506134**
Page 1 of 1

The Block 4 worksheet is used to calculate your discount for services. You will complete one or more worksheets depending on the type of application you are filing. If you file more than one worksheet, please number the completed worksheets to assure that they are all processed correctly. Please refer to the instructions for information specific to the Type of Application you indicated in Block 1, Item 5.

☐ Check here if this worksheet contains all eligible entities in the school district or library system.

9a List entities and calculate discount(s): (For Administrator's Use)
School District or Library System Name: **School District or Library System Entity Number:**

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Name of Eligible Entity	Entity Number AND NCES Code (for Schools) or FSCS Code (for Libraries)	Urban or Rural U or R	Total Number of Students	Number of Students Eligible for NSLP	Percent of Students Eligible for NSLP (Col. 5 / Col. 4)	Disc. from Disc. Matrix	New Construction	Admin Entity or NIF	Alt Disc Mech	Weighted Product for Calculating Shared Discount (Col. 4 x Col. 7)	Insert appropriate codes(s): P= pre-K, H= Head Start, A= Adult Education, J= Juvenile Justice/E= ESA, D= Dormitory	Entity Number of School District in which Library Outlet/Branch is Located	Discount of Member Entity	Shared Discount
ALL ENTITIES			SCHOOLS AND LIBRARIES							Schools with shared services	Schools	Library Outlet/Branch	Consortia	
DEWAR ELEMENTARY SCHOOL	84878 40 09780 420	R	304	304	100.000%	90	N	N	N	27360	P			
DEWAR SR HIGH SCHOOL	84879 40 09780 29725	R	98	98	100.000%	90	N	N	N	8820				
OLD KG BUILDING	16049898	R	162	162	100.000%	90	N	N	N	14580				
GYM	16049899	R	175	175	100.000%	90	N	N	N	15750				
SUPERINTENDENT'S OFFICE	16049904	R	28	28	100.000%	90			N	2520				
LIBRARY	16049901	R	180	180	100.000%	90			N	16200				
TECH ED BUILDING	16049902	R	20	20	100.000%	90			N	1800				
PORTABLE EDUCATION BUILDINGS	16049903	R	435	435	100.000%	90			N	39150				
MAIN BUILDING	16049900	R	420	420	100.000%	90			N	37800				

9b Shared Services

SCHOOL DISTRICTS: (Including groups of schools within school districts.) Calculate the totals of Columns 4 and 11. Divide the total of Column 11 by the total of Column 4. Enter the result in Column 15.	1822									163980				90%
LIBRARY SYSTEMS: Calculate the total of Column 7. Divide this total by the number of outlets/branches. Enter the result in Column 15.														
CONSORTIA: Calculate the total of Column 14. Divide this total by the number of member entities. Enter the result in Column 15.														

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12 Form 470 Application Number 353320000933215																														
13 SPIN – Service Provider Identification Number 143018999																														
14 Service Provider Name CoxCom, Inc. dba Cox Communications Oklahoma City																														
15a <input type="checkbox"/> Check this box if this Funding Request is for non-contracted tariffed or month-to-month services.																														
15b Contract Number n/a																														
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15d <input checked="" type="checkbox"/> Check this box if this Funding Request is a continuation of an FRN from a previous funding year based on a multi-year contract. If so, provide that FRN here: 2253393																														
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18 Contract Award Date (mm/dd/yyyy) 11/28/2011																														
19 Service Start Date (mm/dd/yyyy) 07/01/2013																														
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Entity Number: 140176		Applicant's Form Identifier: Dewar Y16																																							
Contact Person: Karla Hall or Chris Webber		Contact Phone Number: (918) 445-0048																																							
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13 SPIN – Service Provider Identification Number 143027725																																									
14 Service Provider Name Gabbart Enterprises LLC																																									
15a <input type="checkbox"/> Check this box if this Funding Request is for non-contracted tarified or month-to-month services.																																									
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Entity Number: 140176		Applicant's Form Identifier: Dewar Y16							
Contact Person: Karla Hall or Chris Webber		Contact Phone Number: (918) 445-0048							
Block 5: Discount Funding Request(s)		Block 5, page 5 of 6							
Instructions: Use one Block 5 page for EACH service (Funding Request Number) for which you are requesting discounts. Make as many copies of this page as needed, and number the completed pages to assure that they are all processed correctly.		FRN 2402359 (to be assigned by administrator)							
10 <input type="checkbox"/> If this is a duplicate Funding Request (e.g., of an FRN that is not yet approved, under appeal, etc.), check this box and enter the original FRN in the space provided:									
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<input checked="" type="checkbox"/> Internet Access	<input type="checkbox"/> Basic Maintenance of Internal Connections								
12 Form 470 Application Number 649980001045680		A. Monthly charges (total amount per month for service) \$7,571.94							
13 SPIN – Service Provider Identification Number 143035519		B. How much of the amount in A is ineligible? \$0.00							
14 Service Provider Name Meet Point Networks LLC		C. Eligible monthly pre-discount amount (A minus B) \$7,571.94							
15a <input type="checkbox"/> Check this box if this Funding Request is for non-contracted tarified or month-to-month services.		D. Number of months service provided in funding year 12							
15b Contract Number n/a		E. Annual pre-discount amount for eligible recurring charges (C x D) \$90,863.28							
15c <input type="checkbox"/> Check this box if this Funding Request is covered under a master contract (a contract negotiated by a third party, the terms and conditions of which are then made available to an eligible entity that purchases directly from the service provider).		F. Annual non-recurring charges \$0.00							
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18 Contract Award Date (mm/dd/yyyy) 11/10/2012		K. Funding Commitment Request (I x J) \$81,776.95							
19 Service Start Date (mm/dd/yyyy) 07/01/2013									
20a Service End Date (mm/dd/yyyy)									
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Entity Number: 140176	Applicant's Form Identifier: Dewar Y16
Contact Person: Karla Hall or Chris Webber	Contact Phone Number: (918) 445-0048

Block 6: Certifications and Signature

24 ☒ I certify that the entities listed in Block 4 of this application are eligible for support because they are: (Check one or both.)

a ☒ schools under the statutory definitions of elementary and secondary schools found in the **No Child Left Behind Act of 2001, 20 U.S.C. §§ 7801(18) and (38)**, that do not operate as for-profit businesses and do not have endowments exceeding \$50 million; and/or

b ☐ libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996 that do not operate as for-profit businesses and whose budgets are completely separate from any schools, including, but not limited to, elementary, secondary schools, colleges, or universities.

25 ☒ I certify that the entity I represent or the entities listed on this application have secured access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity, necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support. I certify that the entities I represent or the entities listed on this application have secured access to all of the resources to pay the discounted charges for eligible services from funds to which access has been secured in the current funding year. I certify that the Billed Entity will pay the non-discount portion of the cost of the goods and services to the service provider(s).

a Total funding year pre-discount amount on this Form 471 (Add the entries from Items 23i on all Block 5 Discount Funding Requests.)	200911.56
b Total funding commitment request amount on this Form 471 (Add the entries from Items 23K on all Block 5 Discount Funding Requests.)	180820.4
c Total applicant non-discount share (Subtract Item 25b from Item 25a.)	20091.16
d Total budgeted amount allocated to resources not eligible for E-rate support	45000
e Total amount necessary for the applicant to pay the non-discount share of the services requested on this application AND to secure access to the resources necessary to make effective use of the discounts. (Add Items 25c and 25d.)	65091.16

f ☐ Check this box if you are receiving any of the funds in Item 25e directly from a service provider listed on any of the Forms 471 filed by this Billed Entity for this funding year, or if a service provider listed on any of the Forms 471 filed by this Billed Entity for this funding year assisted you in locating funds in Item 25e.

26 ☐ I certify that, if required by Commission rules, all of the individual schools and libraries receiving services under this form are covered by technology plans that do or will cover all 12 months of the funding year, and that have been or will be approved by a state or other authorized body or an SLD-certified technology plan approver prior to the commencement of service.

Or ☒ I certify that no technology plan is required by Commission rules.

27 ☒ I certify that (if applicable) I posted my Form 470 and (if applicable) made any related RFP available for at least 28 days before considering all bids received and selecting a service provider. I certify that all bids submitted were carefully considered and the most cost-effective service offering was selected, with price being the primary factor considered, and is the most cost-effective means of meeting educational needs and technology plan goals.

28 ☒ I certify that the entity responsible for selecting the service provider(s) has reviewed all applicable FCC, state, and local procurement/competitive bidding requirements and that the entity or entities listed on this application have complied with them.

29 ☒ I certify that the services the applicant purchases at discounts provided by 47 U.S.C. § 254 will be used primarily for educational purposes and will not be sold, resold or transferred in consideration for money or any other thing of value, except as permitted by the Commission's rules at 47 C.F.R. §§ 54.500, 54.513. Additionally, I certify that the entity or entities listed on this application have not received anything of value or a promise of anything of value, other than services and equipment sought by means of this form, from the service provider, or any representative or agent thereof or any consultant in connection with this request for services.

30 ☒ I certify that I and the entity(ies) I represent have complied with all program rules and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments. There are signed contracts covering all of the services listed on this Form 471 except for those services provided under non-contracted tariffed or month-to-month arrangements. I acknowledge that failure to comply with program rules could result in civil or criminal prosecution by the appropriate law enforcement authorities.

Entity Number: 140176		Applicant's Form Identifier: Dewar Y16	
Contact Person: Karla Hall or Chris Webber		Contact Phone Number: (918) 445-0048	

Block 6: Certification and Signature (Continued)

31 ☒ I acknowledge that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of benefits from those services.

32 ☒ I certify that I will retain required documents for a period of at least five years after the last day of service delivered. I certify that I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts, and that if audited, I will make such records available to the Administrator. I acknowledge that I may be audited pursuant to participation in the schools and libraries program.

33 ☒ I certify that I am authorized to order telecommunications and other supported services for the eligible entity(ies) listed on this application. I certify that I am authorized to submit this request on behalf of the eligible entity(ies) listed on this application, that I have examined this request, that all of the information on this form is true and correct to the best of my knowledge, that the entities that are receiving discounts pursuant to this application have complied with the terms, conditions and purposes of the program, that no kickbacks were paid to anyone and that false statements on this form can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001 and civil violations of the False Claims Act.

34 ☒ I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I will institute reasonable measures to be informed, and will notify USAC should I be informed or become aware that I or any of the entities listed on this application, or any person associated in any way with my entity and/or the entities listed on this application, is convicted of a criminal violation or held civilly liable for acts arising from their participation in the schools and libraries support mechanism.

35 ☒ I certify that if any of the Funding Requests on this Form 471 are for discounts for products or services that contain both eligible and ineligible components, that I have allocated the eligible and ineligible components as required by the Commission's rules at 47 C.F.R. § 54.504(g)(1), (2).

36 ☒ I certify that this funding request does not constitute a request for internal connections services, except basic maintenance services, in violation of the Commission requirement that eligible entities are not eligible for such support more than twice every five funding years as required by the Commission's rules at 47 C.F.R. § 54.506(c).

37 ☒ I certify that the non-discount portion of the costs for eligible services will not be paid by the service provider. The pre-discount costs of eligible services featured on this Form 471 are net of any rebates or discounts offered by the service provider. I acknowledge that, for the purpose of this rule, the provision, by the provider of a supported service, of free services or products unrelated to the supported service or product constitutes a rebate of some or all of the cost of the supported services.

38	Signature of authorized person <input type="checkbox"/>	39	Date
----	---	----	------

40 Printed name of authorized person Chris Webber

41 Title or position of authorized person Consultant

☐ Check here if the consultant in Item 6g is the Authorized Person.

42a Street Address, P.O. Box, or Route Number
PO Box 701713

City Tulsa
State OK Zip Code 74170-1713

Entity Number: 140176		Applicant's Form Identifier: Dewar Y16	
Contact Person: Karla Hall or Chris Webber		Contact Phone Number: (918) 445-0048	
42b	Telephone Number of authorized Person	(918) 445-0048	Ext.
42c	Fax Number of Authorized Person	(918) 445-0049	
42d	E-mail Address of authorized Person	info@crwconsulting.com	
	Re-enter E-mail Address	info@crwconsulting.com	
42e	Name of Authorized Person's Employer	CRW Consulting	

NOTICE: Section 54.504 of the Federal Communications Commission's rules requires all schools and libraries ordering services that are eligible for and seeking universal service discounts to file this Services Ordered and Certification Form (FCC Form 471) with the Universal Service Administrator. 47 C.F.R. § 54.504(c). The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended. 47 U.S.C. § 254. The data in the report will be used to ensure that schools and libraries comply with the competitive bidding requirement contained in 47 C.F.R. § 54.504. All schools and libraries planning to order services eligible for universal service discounts must file this form themselves or as part of a consortium.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or a potential violation of any applicable statute, regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government is a party of a proceeding before the body or has an interest in the proceeding. In addition, consistent with the Communications Act of 1934, FCC regulations and orders, the Freedom of Information Act, 5 U.S.C. § 552, or other applicable law, information provided in or submitted with this form or in response to subsequent inquiries may be disclosed to the public.

If you owe a past due debt to the Federal government, the information you provide may also be disclosed to the Department of the Treasury Financial Management Service, other Federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide the information to these agencies through the matching of computer records when authorized.

If you do not provide the information we request on the form, the FCC may delay processing of your application or may return your application without action.

The foregoing Notice is required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, et seq.

Public reporting burden for this collection of information is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Performance Evaluation and Records Management, Washington, DC 20554.

Please submit this form to:
SLD-Form 471
P.O. Box 7026
Lawrence, Kansas 66044-7026

For express delivery services or U.S. Postal Service, Return Receipt Requested, mail this form to:
SLD Forms
ATTN: SLD Form 471
3833 Greenway Drive
Lawrence, Kansas 66046
(888) 203-8100

FCC Form 471 - October 2010

Close Print Preview

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Exhibit 4: Notification of Commitment Adjustment Letter

Notification of Commitment Adjustment Letter

Funding Year 2013: July 1, 2013 - June 30, 2014

May 20, 2016

Karla Hall or Chris Webber
DEWAR INDEP SCHOOL DISTRICT 8
PO Box 701713
Tulsa, OK 74170 1713

Re: Form 471 Application Number:	881181
Funding Year:	2013
Applicant's Form Identifier:	Dewar Y16
Billed Entity Number:	140176
FCC Registration Number:	0012679981
SPIN:	143035519
Service Provider Name:	Meet Point Networks LLC
Service Provider Contact Person:	Beverley Fielding

Our routine review of Schools and Libraries Program (SLP) funding commitments has revealed certain applications where funds were committed in violation of SLP rules.

In order to be sure that no funds are used in violation of SLP rules, the Universal Service Administrative Company (USAC) must now adjust your overall funding commitment. The purpose of this letter is to make the required adjustments to your funding commitment, and to give you an opportunity to appeal this decision. USAC has determined the applicant is responsible for all or some of the violations. Therefore, the applicant is responsible to repay all or some of the funds disbursed in error (if any).

This is NOT a bill. If recovery of disbursed funds is required, the next step in the recovery process is for USAC to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of that letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." The FCC's Red Light Rule requires USAC to dismiss pending FCC Form 471 applications if the entity responsible for paying the outstanding debt has not paid the debt, or otherwise made satisfactory arrangements to pay the debt within 30 days of the notice provided by USAC. For more information on the Red Light Rule, please see <https://www.fcc.gov/encyclopedia/red-light-frequently-asked-questions>.

TO APPEAL THIS DECISION:

If you wish to appeal the Commitment Adjustment Decision indicated in this letter to USAC, your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and email address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify the date of the Notification of Commitment Adjustment Letter and the Funding Request Number(s) (FRNs) you are appealing. Your letter of appeal must include the
 - Billed Entity Name,
 - Form 471 Application Number,
 - Billed Entity Number, and
 - FCC Registration Number (FCC RN) from the top of your letter.
3. When explaining your appeal, copy the language or text from the Notification of Commitment Adjustment Letter that is the subject of your appeal to allow USAC to more readily understand your appeal and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal including any correspondence and documentation.
4. If you are an applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are a service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.
5. Provide an authorized signature on your letter of appeal.

We strongly recommend that you use one of the electronic filing options. To submit your appeal to USAC by email, email your appeal to appeals@sl.universalservice.org or submit your appeal electronically by using the "Submit a Question" feature on the USAC website. USAC will automatically reply to incoming emails to confirm receipt.

To submit your appeal to us by fax, fax your appeal to (973) 599-6542.

To submit your appeal to us on paper, send your appeal to:

Letter of Appeal
Schools and Libraries Program - Correspondence Unit
30 Lanidex Plaza West
PO Box 685
Parsippany, NJ 07054-0685

For more information on submitting an appeal to USAC, see "Appeals" in the "Schools and Libraries" section of the USAC website.

FUNDING COMMITMENT ADJUSTMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Adjustment Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from your application for which adjustments are necessary. See the "Guide to USAC Letters" posted at <http://www.usac.org/sl/tools/samples.aspx> for more information on each of the fields in the Report. USAC is also sending this information to your service provider(s) for informational purposes. If USAC has determined the service provider is also responsible for any rule violation on the FRN(s), a separate letter will be sent to the service provider detailing the necessary service provider action.

Note that if the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount. Review the Funding Commitment Adjustment Explanation in the attached Report for an explanation of the reduction to the commitment(s). Please ensure that any invoices that you or your service provider(s) submits to USAC are consistent with SLP rules as indicated in the Funding Commitment Adjustment Explanation. If the Funds Disbursed to Date amount exceeds your Adjusted Funding Commitment amount, USAC will have to recover some or all of the disbursed funds. The Report explains the exact amount (if any) the applicant is responsible for repaying.

Schools and Libraries Program
Universal Services Administrative Company

cc: Beverley Fielding
Meet Point Networks LLC

**Funding Commitment Adjustment Report for
Form 471 Application Number: 881181**

Funding Request Number:	2402359
Services Ordered:	INTERNET ACCESS
SPIN:	143035519
Service Provider Name:	Meet Point Networks LLC
Contract Number:	n/a
Billing Account Number:	
Site Identifier:	140176
Original Funding Commitment:	\$79,959.69
Commitment Adjustment Amount:	\$79,959.69
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date	\$0.00
Funds to be Recovered from Applicant:	\$0.00
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. Based on the documentation you provided during the Special Compliance Review, FRN 2402359 will be denied because you did not select the most cost-effective bid proposal. FCC rules state that in selecting a provider of eligible services, applicants must carefully consider all bids submitted and must select the most cost-effective service offering. In determining which service offering is the most cost-effective, entities may consider relevant factors other than the pre-discount prices submitted by providers, but price should be the primary factor considered. The FCC further codified in the Ysleta Order that in evaluating bids from prospective service providers, applicants must select the most cost-effective offering from the bids received. The selected bid must itself be cost-effective compared to prices available commercially and stated that "there may be situations" where the price of services is so exorbitant that it cannot, on its face, be cost-effective. For instance, a proposal to sell "at prices two to three times greater than the prices available from commercial vendors would not be cost-effective, absent extenuating circumstances." You posted requests for ?minimum 40 MBPS? on FCC Form 470# 389760001050053 and the associated RFP. You received a bid from OneNet offering these specific services at an amount of \$3,185 per month for 50 MBPS and a bid from Meetpoint offering these specific services at an amount of \$7,571.91 per month for 40 MPBS. Both bids are for the specific services requested on the Form 470. You selected a bid from Meetpoint for an amount of \$7571.94 monthly. The bid chosen is over two times more costly than the bid offering from OneNet. This violates the FCC requirement that applicants select the most cost-effective offering from the bids received absent extenuating circumstances. During the review you did not present extenuating circumstances which mitigates your choice of a bid over two to three times greater than the price available from another commercial vendor. Therefore, the commitment has been rescinded in full and USAC will seek recovery of any improperly disbursed funds from the applicant.

Exhibit 5: Administrator's Decision Letter



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2013-2014

August 05, 2016

Chris Webber
Dewar Indep School District 8
CRW Consulting, LLC
PO Box 701713
Tulsa, OK 74170-1713

Re: Applicant Name: DEWAR INDEP SCHOOL DISTRICT 8
Billed Entity Number: 140176
Form 471 Application Number: 881181
Funding Request Number(s): 2402359
Your Correspondence Dated: July 15, 2016

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2013 Notification of Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision. If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 2402359
Decision on Appeal: **Denied**
Explanation:

- After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. Based on the documentation you provided during the Special Compliance Review, FRN 2402359 will be denied because you did not select the most cost-effective bid proposal. FCC rules state that in selecting a provider of eligible services, applicants must carefully consider all bids submitted and must select the most cost-effective service offering. In determining which service offering is the most cost-effective, entities may consider relevant factors other than the pre-discount prices submitted by providers, but price should be the primary factor considered. The FCC further codified in the Ysleta Order that in evaluating bids from prospective service providers, applicants must select the most cost-effective offering from the bids

received. The selected bid must itself be cost-effective compared to prices available commercially and stated that "there may be situations" where the price of services is so exorbitant that it cannot, on its face, be cost-effective. For instance, a proposal to sell "at prices two to three times greater than the prices available from commercial vendors would not be cost-effective, absent extenuating circumstances." You posted requests for minimum 40 MBPS on FCC Form 470# 389760001050053 and the associated RFP. You received a bid from OneNet offering these specific services at an amount of \$2,200 per month for 50 MBPS and a bid from Meetpoint offering these specific services at an amount of \$7,571.94 per month for 40 MPBS. Both bids are for the specific services requested on the Form 470. You selected a bid from Meetpoint for an amount of \$7,571.94 monthly. The bid chosen is over two times more costly than the bid offering from OneNet. This violates the FCC requirement that applicants select the most cost-effective offering from the bids received absent extenuating circumstances. During the review you did not present extenuating circumstances which mitigates your choice of a bid over two to three times greater than the price available from another commercial vendor. Therefore, the commitment has been rescinded in full and USAC will seek recovery of any improperly disbursed funds from the applicant.

- FCC rules state that, in selecting a service provider, the applicant must carefully consider all bids submitted and must select the most cost-effective service or equipment offering, with price being the primary factor, which will result in being the most cost-effective means of meeting educational needs and the technology plan goals. *See* 47 C.F.R. secs. 54.511(a), 54.503(c)(2)(vii), 54.504(a)(1)(xi). *See* also Request for Review of the Decision of the Universal Service Administrator by Ysleta Independent School District, El Paso, Texas, et al., Federal-State Joint Board of Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., SLD Nos. 321479, et al., CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd 26407, FCC 03-313 paras. 47-55 (Dec. 8, 2003). Service providers shall not charge the entities a price above the lowest corresponding price. *See* 47 C.F.R. sec. 54.511(b). In order to ensure that applicants are not requesting discounts for services beyond their reasonable needs, USAC denies funding request(s) for not being cost-effective. The costs of the products and services in a funding request should not be significantly higher than the costs generally available in the applicant's marketplace for the same or similar products or services. For example, equipment at prices two or three times greater than the prices available from commercial vendors would not be cost effective, unless there were extenuating circumstances. *See* Ysleta Order para. 54.

Since your appeal was denied in full, dismissed or cancelled, you may file an appeal with the FCC. Your appeal must be postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found under the Reference

Area/"Appeals" of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

Exhibit 6: Bid Evaluations Sheets

BID EVALUATION SHEET - Full

Erate Year 2013

SERVICE/EQUIPMENT BID IS FOR: Internet Access

COMPANY SUBMITTING BID: MeetPoint

Evaluation Factor	Maximum Points	Total Awarded Points
PRICE OF ELIGIBLE GOODS & SERVICES	25	24
SERVICE HISTORY	20	10
EXPERTISE OF COMPANY	20	20
UNDERSTANDING OF NEEDS/COMPLETENESS OF BIDS	20	20
LOCATION OF COMPANY	15	15
TOTAL POINTS	100	89

Bid Evaluated by: Randy Witham

Date: 11/14/12

Signature: Randy Witham

BID EVALUATION SHEET - Full

Erate Year 2013

SERVICE/EQUIPMENT BID IS FOR: Internet Access

COMPANY SUBMITTING BID: OneNet

Evaluation Factor	Maximum Points	Total Awarded Points
PRICE OF ELIGIBLE GOODS & SERVICES	25	25
SERVICE HISTORY	20	0
EXPERTISE OF COMPANY	20	15
UNDERSTANDING OF NEEDS/COMPLETENESS OF BIDS	20	10
LOCATION OF COMPANY	15	10
TOTAL POINTS	100	60

Bid Evaluated by: Randy W. Khan

Date: 11/14/12

Signature: Randy W. Khan